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**FEDERAL COMMUNICATIONS COMMISSION**  
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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter

CC Docket No. 95-116, DA 96-358

Telephone Number Portability

DOCKET FILE COPY ORIGINAL

**FURTHER REPLY COMMENTS OF SBC COMMUNICATIONS INC.**

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April 5, 1996

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## **TABLE OF CONTENTS**

<b>I.</b>	<b>INTRODUCTION .....</b>	<b>1</b>
<b>II.</b>	<b>DISCUSSION .....</b>	<b>2</b>
<b>A.</b>	<b>“NUMBER PORTABILITY” MEANS “SERVICE PROVIDER PORTABILITY” .....</b>	<b>2</b>
<b>B.</b>	<b>THE TECHNICAL METHOD OF NUMBER PORTABILITY IS NOT PRESCRIBED .....</b>	<b>3</b>
<b>C.</b>	<b>INTERIM APPROACHES WILL PERMIT COMPETITION TO PROCEED .....</b>	<b>6</b>
<b>D.</b>	<b>COST RECOVERY MUST BE COMPETITIVELY NEUTRAL AND RECOVERED FROM ALL TELECOMMUNICATIONS CARRIERS .....</b>	<b>7</b>
<b>E.</b>	<b>THE LEGISLATED REQUIREMENTS ARE INAPPLICABLE TO CMRS .....</b>	<b>7</b>
<b>III.</b>	<b>CONCLUSION .....</b>	<b>8</b>



competition to proceed until the implementation of the Commission's regulations relating to a long-term solution.<sup>4</sup>

- (4) The cost of establishing number portability is to be borne by all "telecommunications carriers" on a competitively neutral basis to be determined by the Commission.<sup>5</sup>
- (5) Commercial Mobile Radio Service ("CMRS") number portability need not be included within the scope of the Commission's order in this Docket.<sup>6</sup>

The Telecommunications Act charges the Commission with the duty to exercise jurisdiction over numbering and to establish requirements for number portability and its cost recovery mechanism.<sup>7</sup>

The Commission should embrace its leadership role and adopt rules that permit the industry to implement number portability efficiently.

## **II. DISCUSSION**

### **A. "NUMBER PORTABILITY" MEANS "SERVICE PROVIDER PORTABILITY"**

As SBC and others point out, number portability is limited to the ability of an end user customer to retain the number associated with its existing service at the same location when changing service providers.<sup>8</sup> Very few commenters disagree. Although New York State

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<sup>4</sup>Section 271(c)(2)(B)(xi).

<sup>5</sup>Section 251(e)(2).

<sup>6</sup>See Sections 153(26) and 251(b)(2) (definition and obligations of LECs).

<sup>7</sup>Sections 251(b)(2) and (e)(1-2).

<sup>8</sup>See Section 153(3):

The term "number portability" means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

Department of Public Service (“NYSDPS”), for instance, proposes that the Commission’s final rules on portability should permit consumers to retain their telephone numbers if they move anywhere within an incumbent’s rate center,<sup>9</sup> the Commission cannot adopt rules to implement the NYSDPS suggestion. Congress was specific in its definition of number portability as service provider portability only. The Commission’s order in this Docket cannot create a greater burden than Congress intended. The Commission cannot adopt rules to require location (or service) portability in addition to the service provider portability intended by Congress.

**B. THE TECHNICAL METHOD OF NUMBER PORTABILITY IS NOT PRESCRIBED**

Congress has mandated that all LECs provide service provider number portability to the extent technically feasible. As pointed out by SBC in its Further Comments,<sup>10</sup> any long-term number portability solution should be developed by the industry in response to end-user customer demand and not by carrier demand or regulatory mandate. Bell Atlantic<sup>11</sup> and BellSouth<sup>12</sup> concur that permitting the industry to work out the details for a long-term portability solution is important.

Several commenting parties argue that the Commission should adopt in this rulemaking the Local Routing Number (“LRN”) proposal as “the” permanent long-term local

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**Id. See also** NYNEX Further Comments at 2; OPASTCO Further Comments at 3; Pacific Bell Further Comments at 6; Omnipoint Further Comments at 3.

<sup>9</sup>NYSDPS Further Comments at 2.

<sup>10</sup>SBC Further Comments at 2.

<sup>11</sup>Bell Atlantic Further Comments at 2.

<sup>12</sup>BellSouth Further Comments at 7-9.

number portability solution.<sup>13</sup> Many proponents of LRN would have the Commission believe that LRN is the only technical solution available and that all of the necessary technical details and questions related to LRN have been resolved. These commenters would have the Commission believe that LRN can be implemented in a short period of time. Some Commenters have even gone so far as to establish timelines for implementation of LRN, generally in 1997.<sup>14</sup>

There exists no consensus, however, that LRN or any other single method of number portability is the correct technical response to Congress' mandate. Although during the past few months some of the technical difficulties of LRN have been resolved, many issues must still be resolved before a timeline or date certain can be established for long-term portability. While LRN may ultimately prove to be "the" viable long-term solution, it is still in the trial phase. It would be premature for the Commission to adopt LRN as the permanent long-term solution, as some commenters suggest.

Importantly, LRN is not the only long-term technical solution being considered by the industry; other technical alternatives also hold promise, including Release-To-Pivot ("RTP") and Query-On-Release ("QOR"). MCI argues that the RTP and QOR proposals are anti-competitive routing schemes because they supposedly will not treat all calls the same.<sup>15</sup> MCI opines, therefore, that RTP and QOR must be summarily rejected in this proceeding. MCI assertions are premature, however, because the industry continues to evaluate the technical details

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<sup>13</sup>AT&T Further Comments at 2-3; ALTS Further Comments at 4; CCTA Further Comments at 3; Teleport Further Comments at 7-8; MCI Further Comments at 4.

<sup>14</sup>See AT&T Further Comments at 8; Time Warner Further Comments at 10.

<sup>15</sup>MCI Further Comments at 8-9.

and potential benefits of RTP and QOR. The determination of the feasibility of RTP and QOR as possible elements of a long-term solution is far from complete.

While some parties opine that Section 251 (d)(1) of the Telecommunications Act requires the Commission to establish rules to implement a long-term number portability solution within six months of enactment,<sup>16</sup> in fact, Section 251 (d)(1) does not require the Commission to adopt, within six months, a specific form of long-term number portability. The Commission is only required within this time frame to outline the principles for a long-term solution. The Commission can then permit the industry to resolve the required technical specifications.

As USTA and others advocate,<sup>17</sup> the Commission should rely upon the industry to determine the appropriate long-term solution. The chosen solution should then be implemented in accordance with the Telecommunications Act, “to the extent technically feasible.” The Commission should not rush to judgment, particularly when Congress has recognized the viability of the existing interim solutions.<sup>18</sup>

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<sup>16</sup> AT&T Further Comments at 1; TCG Further Comments at 1.

<sup>17</sup> GTE Further Comments at 9-10; Pacific Bell Further Comments at 2-4; SBC Further Comments at 2.

<sup>18</sup> See, e.g., Section 271(c)(2)(B)(xi).

**C. INTERIM APPROACHES WILL PERMIT COMPETITION TO PROCEED**

Certain commenters would have the Commission believe that only a long-term approach such as LRN will satisfy the Telecommunications Act's mandate for number portability.<sup>19</sup> These commenters cite the Telecommunications Act's definition of "number portability,"<sup>20</sup> but ignore the language of the Competitive Checklist, which states in pertinent part:

Until the date by which the Commission issues regulations pursuant to section 251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, reliability, and convenience as possible. After that date, full compliance with such regulations.<sup>21</sup>

Congress, through Section 271, endorses interim solutions as sufficient to support the introduction of competition until the Commission establishes requirements for long-term number portability and those requirements are implemented.<sup>22</sup> The Commission should not be swayed by a misreading of the Telecommunications Act and should adopt DID and RCF as interim solutions pursuant to clear statutory language and Congressional intent.<sup>23</sup>

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<sup>19</sup>Cox Enterprises Further Comments at 6, Omnipoint Further Comments at 3, California Cable Television Association Further Comments at 3.

<sup>20</sup>Section 153(30).

<sup>21</sup>Section 271 (c)(2)(B)(xi) (emphasis added).

<sup>22</sup>Other commenters recognized this distinction that seemed to escape the referenced parties. Ameritech Further Comments at 6; USTA Further Comments at 2; GTE Further Comments at 8; Pacific Bell Further Comments at 6.

<sup>23</sup>Although some commenters would lead the Commission to believe that the window of opportunity for BOCs to fulfill the Competitive Checklist will close when the Commission adopts its regulations, presumably the Commission will permit all LECs, including BOCs, a phased-in implementation schedule for the long-term number portability solution. To the extent a BOC meets the Commission's number portability requirements, it will meet that element of the Competitive



**D. COST RECOVERY MUST BE COMPETITIVELY NEUTRAL AND  
RECOVERED FROM ALL TELECOMMUNICATIONS CARRIERS**

Virtually all commenters referenced the competitively neutral cost recovery language of the Telecommunications Act.<sup>24</sup> Given the contentious nature of this issue and the significant impact it will have on all telecommunications providers,<sup>25</sup> SBC concurs with those parties advocating that the Commission adopt an expedited, focused FNPRM that specifically addresses the development of a national approach for recovery of long-term number portability costs on a competitively neutral basis.<sup>26</sup> Any approach ultimately adopted must be in place coincident with deployment of the long-term solution so that LECs are allowed to begin to recover all related costs as they are incurred.<sup>27</sup> To do otherwise would fail the competitive neutrality test and would run counter to legislative intent.

**E. THE LEGISLATED REQUIREMENTS ARE INAPPLICABLE TO  
CMRS**

With one confusing exception, no commenter suggested that the instant Docket, or its subsequent associated dockets, should apply in any respect to commercial mobile radio service ("CMRS") providers. The comments of PCIA in this regard are perplexing. On the one hand,

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Checklist, as well. See, e.g., ALTS Further Comments at 2-3.

<sup>24</sup>Section 251 (e)(2).

<sup>25</sup>Pacific Bell estimates the cost of implementing LRN at approximately \$1B over three years. Pacific Bell Further Comments at 7-8. NYNEX expects the final costs associated with a long-term solution to surpass by a wide margin the costs for 800 portability. NYNEX Further Comments at 4.

<sup>26</sup>Ameritech Further Comments at 2; BellSouth Further Comments at 9; NYNEX Further Comments at 4; ALTS Further Comments at 6-7; MFS Further Comments at 4.

<sup>27</sup>Bell Atlantic Further Comments at 1-2; NYNEX Further Comments at 3-4.

PCIA argues that the Telecommunications Act does not require, and the Commission should not impose, interim number portability requirements on CMRS providers.<sup>28</sup> On the other hand, PCIA argues that broadband CMRS should be included in any long-term number portability requirement, while it has reservations about including narrowband CMRS and SMR services in a long term solution.<sup>29</sup> PCIA also attempts to have the Commission categorize only broadband PCS providers as LECs. PCIA's stance is not only inconsistent with the Telecommunications Act, it is also inconsistent with the Commission's intent to treat equally all providers classified as CMRS.

Moreover, as stated by BellSouth, the record in this Docket makes it clear that wireless providers should not be required to participate in number portability solutions and CMRS providers should not be burdened with number portability requirements.<sup>30</sup>

### **III. CONCLUSION**

Section 251 of the Telecommunications Act charges the Commission with the duty to exercise jurisdiction over numbering issues and to establish requirements for number portability and the recovery of its cost. The Commission should be guided by certain principles in its pursuit of number portability solutions. First, as SBC and others point out, number portability is limited to the ability of an end user customer to retain the number associated with its existing service at

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<sup>28</sup>PCIA Further Comments at 1-2 ( ". . . the obligation to provide number portability is imposed only on local exchange carriers [citing Section 251(b)(2)]--a category that presumptively does not include CMRS" (citing Section 153(26) (a)).

<sup>29</sup>PCIA Further Comments at 2.

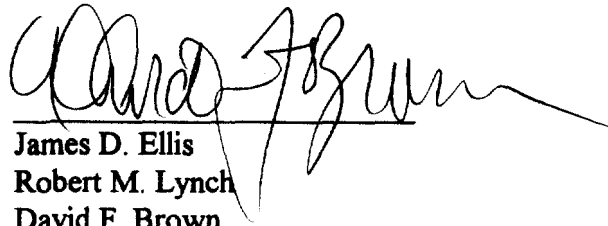
<sup>30</sup>BellSouth Further Comments at 6-7. This position was also voiced by Bell Atlantic/ NYNEX Mobile Further Comments at 2; SBC Further Comments at 3; AirTouch Further Comments at 4-5.

the same location when changing service providers. Second, while LECs are required to implement number portability to the extent technically feasible, there exists no consensus that any particular method of number portability is the correct technical response to Congress' mandate. The Commission should, therefore establish requirements that the industry can use to derive the required technical specifications. Third, the Telecommunications Act expressly endorses the use of interim solutions as sufficient to support the introduction of competition until the Commission establishes requirements for long-term number portability and those requirements are implemented. Fourth, the Commission should address number portability cost recovery through an expedited, focused FNPRM that specifically addresses the development of a national, competitively neutral approach. Any cost recovery approach adopted must be invoked coincident with deployment of the long-term solution to permit LECs to recover their costs on a timely, competitively neutral basis. Fifth, CMRS providers should not be burdened with number portability requirements.

As pointed out by SBC in its Further Comments, any long-term number portability solution the Commission adopts should be developed by the industry in response to end-user customer demand and not by carrier demand or regulatory mandate. The Commission should embrace the authority the Telecommunications Act grants and adopt rules that permit the industry to implement both interim and long-term number portability solutions in an efficient, cost-effective, and competitively neutral manner.

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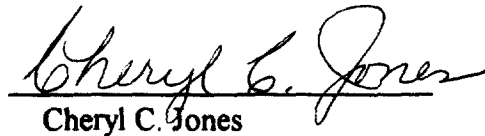
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**April 5, 1996**

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